



**BILLING CODE: 4810-AM-P**

**CONSUMER FINANCIAL PROTECTION BUREAU**

**12 CFR Part 1070**

**[Docket No. CFPB-2012-0038]**

**Privacy Act of 1974; Implementation of Exemptions**

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Consumer Financial Protection Bureau (“CFPB” or the “Bureau”) is proposing to amend its regulations to exempt portions of its system of records entitled “CFPB.005—Consumer Response System” from certain provisions of the Privacy Act of 1974, as amended (the “Privacy Act”).

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments, identified by Docket No. CFPB-2012-0038, by any of the following methods:

- *Electronic:* [www.regulations.gov](http://www.regulations.gov). Follow the instructions for submitting comments.
- *Email:* [privacy@cfpb.gov](mailto:privacy@cfpb.gov).
- *Mail/Hand Delivery/Courier:* Claire Stapleton, Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.

All submissions must include the agency name and docket number for this notice.

In general, all comments received will be posted without change to

<http://www.regulations.gov>. In addition, comments will be available for public

inspection and copying at 1700 G Street NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202) 435-7220. All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

**FOR FURTHER INFORMATION CONTACT:** Claire Stapleton, Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20552, (202) 435-7220.

**SUPPLEMENTARY INFORMATION:**

**Background**

The CFPB is re-publishing its System of Records Notice entitled “CFPB.005—Consumer Response System.” The CFPB uses the Consumer Response System (“CRS”) to collect, process, respond to, and refer consumer complaints or inquiries regarding consumer financial products and services.

The CFPB also uses information in CRS to investigate whether allegations set forth in consumer complaints describe potential violations of law and if so, to determine whether and to whom to refer such allegations for possible law enforcement actions. Sensitive information about the CFPB’s investigative processes, techniques, and conclusions are recorded in CRS.

Pursuant to subsection (k) of the Privacy Act, 5 U.S.C. 552a(k), the CFPB proposes to amend its Rule on the Disclosure of Documents and Information, 12 CFR 1070, to exempt this investigative information from public access and certain other

provisions of the Privacy Act as well as corresponding provisions of Subpart E of the Rule. The CFPB deems this exemption to be necessary to prevent interference with law enforcement investigations as well as compromise of its investigative processes that could ensue if the CFPB divulged to the public information about particular consumer complaint investigations or investigative techniques and methods.

Where the CFPB does not have reason to expect that its provision of public access to investigatory information in CRS would interfere with pending law enforcement investigations or compromise the CFPB's law enforcement process, then the CFPB may, in its discretion, waive the applicable exemption.

### **Procedural Requirements**

The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (the "RFA"), requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small not-for-profit organizations, unless the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The undersigned so certifies. The proposed rule would not impose any obligations or standards of conduct for purposes of analysis under the RFA, and it therefore would not give rise to a regulatory compliance burden for small entities.

Finally, the Bureau has determined that this proposed rule would not impose any new recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval under the Paperwork Reduction Act, 44 U.S.C. 3501, et seq.

## **List of Subjects in 12 CFR Part 1070**

Confidential business information, Consumer protection, Freedom of information, Privacy.

## **Authority and Issuance**

For the reasons set forth in the Preamble, the Bureau proposes to amend 12 CFR Part 1070 as follows:

## **PART 1070--DISCLOSURE OF RECORDS AND INFORMATION**

1. The authority citation for part 1070 continues to read as follows:

**Authority:** 12 U.S.C. 3401; 12 U.S.C. 5481 *et seq.*; 5 U.S.C. 552; 5 U.S.C. 552a; 18 U.S.C. 1905; 18 U.S.C. 641; 44 U.S.C. ch. 30; 5 U.S.C. 301.

2. In § 1070.60, add paragraph (a)(4) to read as follows:

### **§ 1070.60--Exempt Records**

(a) Exempt systems of records: \* \* \*

(4) CFPB.005 Consumer Response System

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Dated: October \_2\_, 2012.

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Richard Cordray,

*Director, Bureau of Consumer Financial Protection.*

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